

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

-v-

Plaintiff(s),

Civil Action:

Honorable George E. Woods

Defendant(s).

PRETRIAL ORDER

Absent specific Order by this Court, the parties are not required to comply with FRCP 26(a)(1), E.D. Mich. LR 26.3. **THE COURT DOES REQUIRE COMPLIANCE WITH ALL OTHER PROVISIONS UNDER FRCP 26.**

The Court usually holds a preliminary pretrial conference as soon as a case is at issue. At the conference, the Court briefly reviews the nature of the case and any problems likely to be encountered during trial, as well as likely motions to be filed.

A review of the pleadings in this case suggest that a preliminary pretrial conference is unnecessary and time limits for discovery, submission of dispositive motions, the final pretrial conference and trial can be set without the necessity of such a conference. **Accordingly:**

1. Closing date for discovery:
2. Closing date for submission of dispositive motions:
3. Date and time of final pretrial conference: at
Room 272, U.S. Courthouse, Detroit, Michigan
4. Trailing trial docket date and time: is

WITNESS LISTS ARE DUE 21 DAYS PRIOR TO THE CLOSE OF DISCOVERY.

Any extension or adjournment may be had only on cause shown and with the formal approval of the Court. A STIPULATION BETWEEN THE PARTIES WILL NOT SUFFICE.

The requirements for the joint pretrial statement to be filed at the final pretrial conference are attached.

If any counsel believes a preliminary pretrial conference would further the progress of this case, resolve any problems or increase the likelihood of settlement, a conference may be scheduled through the Case Manager, Teresa McGovern, at (313) 234-5152.

IN ALL MOTIONS OR PETITIONS, ALL LOCAL RULES, SPECIFICALLY RULES 5.1 and 7.1 SHALL BE ENFORCED BY THIS COURT. FAILURE TO MEET FILING DEADLINES OR ANY OF THE REQUIREMENTS MAY RESULT IN SANCTIONS BEING IMPOSED.

REFERRAL TO MAGISTRATE JUDGE

IT IS ORDERED that, pursuant to 28 U.S.C. §636(b)(1)(A), all timely filed motions relating to discovery practice are referred to U.S. Magistrate Judge . If sanction of dismissal is sought, the reference shall also be under 28 U.S.C. §636(b)(1)(B).

So ordered.

GEORGE E. WOODS
UNITED STATES DISTRICT JUDGE

Dated: August 17, 2001

CERTIFICATE OF SERVICE

I certify that a copy of this Order was served upon all parties on this date by ordinary mail

Teresa A. McGovern, Deputy Clerk

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

O R D E R

IT IS ORDERED that counsel for plaintiff must assume the responsibility for convening a conference for all parties to confer and collaborate in formulating a short, concise final pretrial order which is to be drafted by counsel for plaintiff, approved and signed by counsel for all parties, and submitted to the Court for approval and adoption. THE ORDER MUST PROVIDE FOR THE SIGNATURE OF the Court, which, when signed, will become an Order of the Court.

The proposed final pretrial order shall contain, under appropriate captions, the following in the following order:

1. Statement of plaintiff's claim, including legal theories.
2. Statement of defendant's defenses and claims, including claims of third-party plaintiffs, and defenses of third-party defendants, including legal theories.
3. A recitation of any facts or other matters to which the parties have stipulated.
4. Issues of fact remaining to be litigated.
5. Issues of law to be litigated.
6. Evidence problems likely to arise at trial.
7. Witnesses: Indicate which witnesses will be called and which witnesses may be called. You must provide reasonable notice to opposing counsel of any changes.
 - A. Witnesses for plaintiff.
 - B. Witnesses for defendant.
8. A summary of the testimony of all expert witnesses.
9. A itemized statement of special damages. Counsel will be requested to stipulate to those items not in dispute.
10. Estimated length of trial.
 - A. Time for plaintiff's proofs.
 - B. Time for defendant's proofs.
 - C. Indicate whether it is a jury or non-jury trial.

D. If a jury trial, do you stipulate to less than a unanimous verdict?

E. If a jury trial, do you stipulate to a verdict of less than six but not less than five if jurors must be excused during the course of the trial?

11. A statement that counsel have met, conferred and considered the possibility of settlement, giving place, time, and date and the current status of these negotiations, as well as plans for further negotiations.

12. A glossary of all relevant technical terms. A copy of the glossary must also be furnished for the court reporter.

THE FOLLOWING RULES WILL CONTROL FURTHER PROCEEDINGS IN THIS CASE:

A. **Discovery is to be completed on or before the date indicated in the attached order or any subsequent amendment.**

B. Once a formal pretrial order has been issued, this supersedes previous pleadings and orders and controls the trial proceedings. Motions for dismissal, summary judgment and other dispositive motions will be decided prior to the entry of the final pretrial order.

C. Individual party trial briefs shall be submitted to the Court at least two days before the time set for trial. The trial brief must cover all evidence issues expected to arise during the trial. Generally, the Court will rule on questions of admissibility of evidence and objections before trial starts.

D. Jury Instructions

1. Only one set of **joint proposed jury instructions** may be submitted (HARD COPY AND DISC). This requires concurrence between the parties. If the parties cannot stipulate to a particular instruction, they may submit their specific objections in writing to the Court.

2. The parties may include titles for the proposed instructions, and/or standard jury instruction numbers. However, no case cites are permitted.

3. The proposed instructions must be typed double-spaced, on plain white paper. This means NO LETTERHEAD STATIONARY.

4. The parties must submit a proposed verdict form which contains the caption of the case (excluding attorney names and addresses).

5. In non-jury cases, proposed findings of fact and conclusions of law shall be submitted to the Court by each party at least 24 hours before commencement of the trial. Any questions should be directed to the law clerks who can be reached at 313-234-5150.

E. In jury trials, the voir dire will be conducted by the Court. Counsel may submit in writing suggested voir dire questions in advance of trial.

F. Counsel are to submit to each other all documentary evidence in advance of trial in an effort to stipulate to authenticity. **ALL EXHIBITS MUST BE MARKED IN ADVANCE OF TRIAL.** Evidence on authenticity of exhibits will not be permitted at trial unless there is a bona fide dispute as to authenticity. Objections as to relevancy of exhibits are reserved. If any sketches, models, diagrams, movies, demonstrations, or objects of any kind whatever are to be used during trial or in argument, they will be exhibited to opposing counsel at least three days before trial begins. If there are objections, they should be submitted to the Court for decision before trial starts.

G. Continuance of trial dates or continuances during trial will not be granted because of the unavailability of a witness, since the Court has facilities available for taking video depositions.

H. If any deposition is to be used, counsel will notify opposing counsel before the trial starts (unless the necessity for using a deposition develops unavoidably thereafter). Opposing counsel will note objections to any portion of the deposition in advance of trial, and the Court will rule on the objections before the trial starts. Counsel shall purge all extraneous matter from depositions prior to trial.

I. Opening and closing argument shall be in conformity with the Local Rules of the United States District Court for the Eastern District of Michigan.

J. The requirements of the Local Rules must be observed. However, where these requirements and the requirements of the Local Rules are in conflict, these requirements shall govern.

FAILURE TO COMPLY STRICTLY WITH THE FOREGOING MAY RESULT IN DISMISSAL, DEFAULT JUDGMENT, REFUSAL TO LET WITNESSES TESTIFY, REFUSAL TO ADMIT EXHIBITS, OR OTHER ACTION, INCLUDING THE ASSESSMENT OF SPECIAL COSTS AND EXPENSES, INCLUDING ATTORNEY FEES.

GEORGE E. WOODS
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

NOTICE OF LOCAL RULES

LR 5.1 Filing of Papers

(a) General Format of Papers Presented for Filing. All papers presented for filing must show the name of the court, the title and number of the case, the name or nature of the paper in sufficient detail for identification, the name of the judge and magistrate judge to whom the case is assigned, and the name, office address, telephone number and state bar identification number of the attorney. All papers must be on 8 ½ x 11 inch white paper of good quality and be plainly typewritten, printed, or prepared by a clearly legible duplication process, and double-spaced, except for quoted material and footnotes. Except for standard preprinted forms that are in general use, type size of **all text and footnotes must be no smaller than 10 characters per inch (non-proportional) or 12 point (proportional)**. Margins must be at least one and one-half inches on the top and one inch on the sides and bottom. Each page must be numbered consecutively. This subsection does not apply to exhibits submitted for filing and documents filed in removed actions prior to removal from the state courts.

(b) Number of Copies Required for Filing. All papers filed with the clerk must include an original and one copy. The copy should be clearly marked "JUDGE'S COPY."

(c) Copies Required for a Three-Judge Court. In any action or proceeding in which a three-judge court is requested, parties must file an original and three copies of all papers until it is determined either that a three-judge court will not be convened or that the three-judge court has been convened and dissolved and the case remanded to a single judge. The parties may be permitted to file fewer copies by order of the court.

(d) Exhibits. Bulky exhibits are to be securely bound or fastened and clearly marked with the case number and the name of the judge to whom the case is assigned.

COMMENT:

LR 26.2 applies to filing discovery material.

LR 83.50 applies to filing papers in bankruptcy cases and proceedings.

Counsel and parties are advised that the handling and storage of documents are facilitated if they are received flat and without folds.

**LR 5.2 Service of Non-Dispositive and Dispositive Orders;
Stipulations and Orders**

(a) **Service of Non Dispositive Orders.** Unless otherwise directed by the Court, the Clerk shall send the movant seeking a non-dispositive order a copy of the order signed by the judicial officer. Within 10 days of the date of the order, unless otherwise directed by the judge in a particular case, the movant shall serve, in accordance with Fed. R. Civ. P. 5, copies of the order on all other parties and promptly file a proof of service.

(b) **Stipulations and Orders; Service of Orders.** The party initiating a stipulation and proposing an order shall submit a self-addressed stamped envelope and shall be responsible for serving copies of the order on all other parties within 10 days of the date of the order, unless otherwise directed by the judge in a particular case. No proof of service is required.

(c) **Service of Dispositive Orders.** The preparer of a dispositive order, other than a stipulated order, shall submit the proposed order to the Court with an original and a copy for the Court and sufficient copies and addressed, stamped envelopes for all parties in the case. The clerk shall mail to the parties the order or judgment and provide a proof of service for the record of the Court.

(d) **Definition of Dispositive Order.** For purposes of this Rule, “dispositive order” means an order disposing of a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by a defendant, to suppress evidence in a criminal case, to certify or decertify a class, to dismiss for failure to state a claim upon which relief can be granted, and to involuntary dismiss an action, whether the order granted or denies the motion in whole or in part.

COMMENT LR 5.2 is similar to MCR 2.602 (D)(1).

In (a), the movant is responsible for service even if the movant does not prevail, in whole or in part.

In (b), the initiating party carries the same burden as the movant in (a). No proof of service is necessary because the order follows a stipulation.

In (c), the preparer includes the Court. If the Court prepares the dispositive order, then the Court provides all documents, envelopes and postage for service. If the Court directs a party to prepare the final order, then that party provides copies of the order, envelopes and postage for the Court to complete service after the judicial officer signs the order.

LR 83.4 Disclosure of Corporate Affiliations and Financial Interest

(a) Parties Required to Make Disclosure. With the exception of the United States Government or agencies thereof, or a state government or agencies or political subdivisions thereof, all corporate parties to a civil case and all corporate defendants in a criminal case must file a Statement of Disclosure of Corporate Affiliations and Financial Interest. A negative report is also required.

(b) Financial Interest to be Disclosed.

(1) Whenever a corporation which is a party to a case is a subsidiary or affiliate of any publicly owned corporation not named in the case, counsel for the corporation which is a party must file the statement of disclosure provided in (c) identifying the parent corporation or affiliate and the relationship between it and the corporation which is a party to the case. A corporation is considered an affiliate of a publicly owned corporation for purposes of this Rule if it controls, is controlled by, or is under common control with a publicly owned corporation.

(2) Whenever, by reason of insurance, a franchise agreement, lease, profit sharing agreement, or indemnity agreement, a publicly owned corporation or its affiliate, not a party to the case, has a substantial financial interest in the outcome of the litigation, counsel for the party whose interest is aligned with that of the publicly owned corporation or its affiliate must file the statement of disclosure provided in (c) identifying the publicly owned corporation and the nature of its or its affiliate's substantial financial interest in the outcome of the litigation.

(3) The duty of disclosure by the corporate parties described in this Rule is continuing.

(c) Statement of Disclosure. The statement of disclosure must be made on a form provided by the Clerk and filed, as part of the first pleading or paper filed by the party in this Court, or as soon as the party becomes aware of the corporate affiliation or financial interest, or as otherwise ordered by the judge to whom the case is assigned.

COMMENT: LR 83.4 is based on 6th Cir. R. 26.1. It is the responsibility of the courtroom deputy clerk for the judge to whom the case is assigned to monitor compliance with this Rule, including but not limited to sending out copies of the statement of disclosure to new defendants, third-party defendants, and others affected under (b).

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

_____,
Plaintiff,

vs.

Case No.
Hon. George E. Woods

_____,
Defendant.

**Statement of Disclosure of Corporate Affiliations
and Financial Interest**

Pursuant to LR 83.4, _____ makes the following disclosure: [NOTE: A negative report, if appropriate is required.]

1. Is said corporate party a subsidiary or affiliate of a publicly owned corporation?
Yes _____ NO _____

If the answer is Yes, list below the identity of the parent corporation, affiliate and the relationship between it and the named party:

2. If there a publicly owned corporation or its affiliate, not a party to the case, that has a substantial financial interest in the outcome of the litigation?
Yes _____ NO _____

If the answer is Yes, list the identity of such corporate or affiliate and the nature of the financial interest:

Signature of Counsel

Date